



## KENNECOTT AND THE GREAT SALT LAKE

by Karen Denton and Jeff Rice

Keep an eye on Kennecott. The resident bad kid of the state's industries, the one who taught Geneva and MagCorp how to misbehave, is in a position to threaten the Great Salt Lake's wetlands.

The national debate over wetlands heats up more all the time. What you've read so far (see *Catalyst*, July/August 1991) is only the tip of the iceberg. George Bush ran as the "education candidate" who would also protect wetlands from any "net loss." Given his educational program so far, it's not surprising that Bush's approach to wetlands preservation is to change the definition.

### Federal protection of wetlands

Congress passed the Federal Water Pollution Control Act in 1972. This eventually evolved into the Clean Water Act (CWA). Wetlands constituted an integral part of the act from the beginning. Legislators recognized wetlands as the link to clear and abundant water, sustainable aquatic life and waterfowl, effective controls for floods and erosion and our overall quality of life. Section 404 of the CWA directly relates to protecting the integrity of the nation's waters, particularly wetlands. It requires a permit before any dredging or filling can occur.

Congress, in its infinite wisdom, charged two agencies whose mission statements were diametrically opposed, with overseeing section 404.

One of Kennecott's many waste ponds, dubbed the Blue Lagoon by insiders, apparently affects the lake's wetlands and should have a 404 permit to govern it. No permit was ever issued, a fact that the ACE discovered after an acid spill near one of Kennecott's wastewater treatment plants in April 1990.

The Army Corps of Engineers (ACE) delights in building dams, stream channels and levees. It issues permits for dredging of wetlands with the same glee that foxes display while guarding hen houses. Particularly pernicious is Nationwide Permit 26 (NWP 26), a general permit with broad powers to allow any dredge or fill activity in isolated wetlands if the damage is limited to fewer than 10 acres. ACE requires only 20 days and minimal information for agency review and rarely enforces mitigation operations for losses under NWP 26. According to Jan Goldman-Carter of the National Wildlife Federation, ACE annually

Wetlands offer "an incredibly complex web of life." "If the tailings pond is enlarged, there probably would be a negative impact... and these plans are moving ahead rapidly."

allows the destruction of thousands of acres of wetlands under NWP 26.

The EPA represents the other half of the protective duo. It drafted the standards for permit issuance or denial. Congress also gave the EPA authority to prohibit discharges at specific sites if adverse environmental effects might occur. The State Division of Water Quality possess these abilities at the state level.

The two federal agencies spend at least some of their time at logger heads with one another rather than protecting wetlands. Their most recent agreement, however, puts them both at odds with environmental groups and, strangely enough, the Department of the Interior.

In 1989, all three of these agencies, along with ACE, issued guidelines for

wetlands that redefined them as "areas that had mucky or peat-based soils, were havens to specific plants that thrived in moist areas, or had water within 18 inches of the surface for at least seven days during the growing season." (*New York Times*, May 15, 1991). All of these agencies, except the Interior now want to change this definition.

### Wetland laws too restrictive?

Farmers and developers especially resented and fought the 1989 rules as too restrictive. It meant, for example, that farmers could not drain valuable crop land because the feds suddenly categorized it as wetlands.

One example of this debate in Utah centered on the discussions about creating a fresh water lake (Lake Wasatch) on the east side of the Great Salt Lake which would have destroyed even more of the wetlands in that area. Another example is the refineries, which consumed vast stretches of these wetlands years ago through dredging and filling to build facilities.

### Wetland depletion

The flip side of this argument points out the vast amount of wetlands lost annually. The Department of the Interior estimates that the continental U.S. contained 250 million acres of wetlands in the 1700s, or 12% of the total land area today. An approximate 100 million acres, or 5% of the total lands, remain. Fifty-three percent of the wetlands, nationally, are gone.

The Utah Audubon Society speculates that Utah lost about 30%, or 244,000 acres, from the 1780s to the 1980s.

### The Great Salt Lake: wetlands of international importance

The Great Salt Lake's surrounding environs contain about 80% of all wet-

lands in the state. The International Union for Conservation of Nature and Natural Resources nominated the lake as a wetland area of international importance and it participates in the Western Hemisphere Shorebird Reserve Network because of the part it plays in the migratory patterns of many birds.

California gulls, for example, aggregate in the largest numbers outside California along the Great Salt Lake shores to nest and breed. Wilson's phalaropes, shorebirds which require specialized areas for food, similarly regard the lake as part of the heaven on earth. Snowy plovers which may make the endangered species list, whooping cranes, peregrine falcons and bald eagles all which already grace the endangered species ranks, each pay annual visits to the lake.

Bob Walters, the Special Projects coordinator for the Division of Wildlife Resources, suggests that wetlands offer "an incredibly complex web of life" and "particularly in the winter, the wetlands would be the place where they [birds] would find their food." There is no doubt that for environmentalists and scientists the Great Salt Lake is an important part of the food chain and delicate ecosystem.

### Enter Kennecott and proposed changes to the 1989 wetlands definition.

The EPA recommends that wetlands should include the following:

1. Soils composed of muck or peat or other soils formed from constant soaking.
2. A surface that must be flooded or saturated for more than 14 consecutive days during growing season or periodically flooded by tides.
3. More than half of all plants growing in the wetlands must be among the 7,000 species common to wetlands (reeds, grasses, sedges, etc.). Additionally, federal law (HB 1330) would undermine EPA's ability to veto dredging and fill projects. All of this places Utah wetlands in even greater danger from development.

Kennecott stands square in the middle of this threat. Unclear at the moment is the extent of damage that the copper giant may have caused so far. One of Kennecott's many waste ponds, dubbed the Blue Lagoon by insiders, apparently affects the lake's wetlands and should have a 404 permit to govern it. No permit was ever issued, a fact that the ACE discovered after an acid spill near one of Kennecott's wastewater treatment plants in April 1990.

Kennecott began a study and wetlands inventory shortly afterward at the ACE's request. In a letter to the Corps, then Director of Environ-

continued on page 7

## CATALYST AT THE CAPITOL

by Karen Denton

Whether or not you personally agree with hunting, it provides more than agriculture to our overall economic well being. So the thought of some people dipping into this resource without benefiting the state raises the hackles of Division of Wildlife Resources (DWR) staff and responsible sports people who must make up for the thoughtless, and sometimes illegal, actions of others.

**S**kiing adds about \$500 million to the state annually, but that's not the only economic game in town. Many hunters stalk everything from waterfowl to cougars within our scenic vistas and contribute significantly to the state's coffers. Gross expenditures on fish and wildlife activities in Utah exceeded \$540 million in 1990.

The Energy, Natural Resources and Agriculture Interim Committee of the State Legislature devoted almost its entire July meeting to the problem of hunter violations.

### Wildlife violator compact considered

Several western states currently participate in the compact which allows wildlife officers to issue citations to nonresidents for violations the same way that instate violators receive them. Officials notify the home state if the violator defaults on the citation, and can reject the license application for any nonresidents whose licenses have been revoked in their home state. If Utah becomes a member of the compact, the state can exchange lists of license revocations with other member states.

### Third degree felony for those who "thrill kill" or kill for profit?

Poachers damage wildlife resources and the reputation of legitimate sport hunters at least as much as nonresident violators.

• People who thrill kill or poach

not only rob Utahns of the beauty derived from wildlife, but the tax base provided by those who hunt and fish legitimately. Tax revenue from fish and wildlife activities generated over \$27 million for the General Fund and \$16.5 million for the Transportation Fund in 1990.

**The Utah Wildlife Leadership Coalition, which consists of 69 member groups, recommends including restitution along with penalty fees. Each species taken illegally would carry a certain value for its loss.**

Craig Coburn of the Utah Outdoor Alliance and Jack Ray with the Utah Wildlife Federation have proposed legislation that would charge those who thrill kill or kill for profit with a third degree felony. The poaching penalty now is a Class B misdemeanor for the wanton waste or commercial taking for larger animals such as desert bighorn. A poacher who keeps the meat for himself faces a Class A misdemeanor currently.

### Making the punishment fit the crime

The Legislature directed the Judicial Council two years ago to review the Utah code for inconsistencies between the seriousness of a crime

and the severity of the penalty. It included the bulk of its suggestions in a bill this past regular session, but wildlife violations were deleted. A number of people had voiced concern over proposed penalties for natural resource violations that they considered out of proportion to other crimes.

As a result, constituent groups worked hard with the DWR and the Judicial Council to draft a bill that would target populations such as poachers with penalties severe enough to act as a deterrent, but still acceptable to nervous legislators.

Straight penalties may not be enough. The Utah Wildlife Leadership Coalition, which consists of 69 member groups, recommends including restitution along with penalty fees. Each species taken illegally would carry a certain value for its loss. The Committee greeted these proposals favorably.

More controversial is impounding vehicles for Class B misdemeanor wildlife violations. Senator Cary Peterson (R-Juab, Millard, San Pete) vehemently opposes including this in the code rewrites as too great an infringement on the individual.

Certainly, many people on the other side argue that hunting and fishing are privileges, not rights. Violators hurt wildlife resources, responsible sports people and Utahns generally who have a stake in the proper protection and management of wildlife.

Expect to see the first three considerations as bills next January, but vehicle impounds may be dead in its tracks.

The interim committees meet the third Wednesday of each month. Call the Legislative Research and General Counsel office at 538-1032 for more information.

"Catalyst at the Capitol" by Karen Denton appears in every issue of Catalyst.

### KENNECOTT

continued from page 5

mental Affairs Mike Gibson wrote that Kennecott would complete the study by December 1990 and begin a compliance analysis in October 1990. Brooks Carter of the Corps still waits to see the study results.

Kennecott refuses to release the study and Carter points out that it "is not obligated under law to release its study, or even to map its areas." Biowest, a consulting firm in Logan which was hired to map the wetlands, apparently found portions of Kennecott's water treatment plants out of compliance, but Cindy Emmons, Gibson's successor, refused to accept the findings. Don Ostler, director of the Division of Water Quality, is "not aware of any problems with wetlands. The tailings pond has been there 20 to 25 years... and wetlands contamination is [probably] older than that."

Kennecott's plans for the future include expanding their tailings pond near the Great Salt Lake and this prospect worries Ostler a great deal. "If the tailings pond is enlarged, there probably would be a negative impact... and these plans are moving ahead rapidly." If Bush's administration relaxes the definition of wetlands, Kennecott may muster enough clout to acquire a permit from ACE. Two obstacles are in its way: public opposition, and the Division of Water Quality which could veto ACE permits.

One immediate action citizens can take now is to write their Congressional representatives to oppose HB 1330, the Hayes bill.

One other step is to encourage the Division and Department of Environmental Quality to hold a hard line against Kennecott's business as usual.

For information regarding the latest wetlands legislation, call the EPA Wetlands Hotline: 800/832-7828.

Kay Denton teaches in the Women's Studies department at the University of Utah and lobbies for the Sierra Club.

Jeff Rice is a regular Catalyst contributor who has recently moved to San Francisco.

## AWAKENING TO NEW LIFE

An ongoing psychotherapy group for women interested in deepening their experience of self at the levels of body, mind, spirit, and in relationship with others.



Drawing on a variety of traditions from native cultures in the East and West and incorporating new methods of expanding awareness the Group will work on healing painful pasts and creating new paths for the present and future.

**Beginning in September**

Leader Jan Magleby, MSW, LCSW, is a transpersonal therapist who has been working with women and leading groups for ten years.

For further information or to schedule an interview call Jan at 532-2839

## 1991 UTAH 27-DAY NLP PRACTITIONER CERTIFICATION TRAINING

NLP represents a rapidly evolving field of discoveries about how people learn, communicate, change and grow. It was developed by studying the thinking and communicating patterns of people who are highly successful. Learning NLP gives you the ability to know "what to do" and "how to do it" to create lasting change (in yourself and others) and to communicate effectively in any situation. Understanding NLP is truly empowering.

**October 1991 - April 1992**

(Four days per month)

**Call 278-1022 for information/brochure**

Free Evening Previews - Golden Braid Books

213 East 300 South

September 10 and October 4 • 7-8:30pm

Downtown Holiday Inn

September 9 • 5:30-7pm



1569 E. Waterbury Drive  
Salt Lake City, Utah 84121